

Approved, SCAO

Original - Court
1st copy - DefendantOAKLAND
COUNTY

08-092855-CK

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS AND COMPLAINT

JUDGE COLLEEN A. O'BRIEN
DENEWETH DUGA v MIDWEST ENVI

Court address

1200 North Telegraph Rd, Pontiac, MI 48341

Court telephone no.

(248) 858-1000

Plaintiff's name(s), address(es), and telephone no(s).

Deneweth, Dugan & Parfitt, P.C.

c/o Chris Parfitt

Plaintiff's attorney, bar no., address, and telephone no.

Chris Parfitt (P23821)

Deneweth, Dugan & Parfitt, P.C.

1175 W. Long Lake Rd., Suite 202, Troy, MI 48098

(248) 290-0400

v

Defendant's name(s), address(es), and telephone no(s).

Zapata, Inc.

c/o John J. Lecher-Zapata

1935 Yolanda Ave.

Lincoln, NE, 68521

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued

JUL 09 2008

This summons expires

OCT 08 2008

Court clerk

RUTH JOHNSON

*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.***Family Division Cases**☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.

Judge

Bar no.

General Civil Cases☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.

Judge

Bar no.

VENUE

Plaintiff(s) residence (include city, township, or village)

Oakland County, Michigan

Defendant(s) residence (include city, township, or village)

Lancaster County, Nebraska

Place where action arose or business conducted

Oakland County, Michigan

07/09/2008

Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

PROOF OF SERVICE**SUMMONS AND COMPLAINT**

Case No. _____

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ I served personally a copy of the summons and complaint,

☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with _____

_____ List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____

Name (type or print) _____

Title _____

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date

Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____

Attachments _____

on _____

Day, date, time

on behalf of _____

Signature _____

OAKLAND
COUNTY

08-092855-CK

SUI
Case**PROOF OF SERVICE**

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

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\$		\$	\$

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Name (type or print) _____

Title _____

Subscribed and sworn to before me on _____, _____ County, Michigan.
 Date

My commission expires: _____ Date Signature: _____
 Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____

Attachments _____

_____ on

Day, date, time

on behalf of _____

Signature _____

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO.
Court address 1200 North Telegraph Rd, Pontiac, MI 48341		Court telephone no. (248) 858-1000
Plaintiff's name(s), address(es), and telephone no(s). Deneweth, Dugan & Parfitt, P.C. c/o Chris Parfitt	v	Defendant's name(s), address(es), and telephone no(s). Zapata, Inc. c/o John J. Lecher-Zapata 1935 Yolanda Ave. Lincoln, NE, 68521
Plaintiff's attorney, bar no., address, and telephone no. Chris Parfitt (P23821) Deneweth, Dugan & Parfitt, P.C. 1175 W. Long Lake Rd., Suite 202, Troy, MI 48098 (248) 290-0400		

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Issued JUL 09 2008	This summons expires OCT 08 2008	Court clerk RUTH JOHNSON
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- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
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Docket no.	Judge	Bar no.
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General Civil Cases

- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
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Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Oakland County, Michigan	Defendant(s) residence (include city, township, or village) Lancaster County, Nebraska
Place where action arose or business conducted Oakland County, Michigan	

07/09/2008

Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

OAKLAND
COUNTY 08-092855-CK

JUDGE COLLEEN A. O'BRIEN
DENEWETH DUGA v MIDWEST ENVI

STATE OF MICHIGAN
IN THE SIXTH JUDICIAL CIRCUIT COURT

PLAINTIFF,

v

Case No.

DEFENDANT. _____

NOTICE OF MANDATORY EFILING

At a session of said Court held in the
Sixth Judicial Circuit Court for the
County of Oakland in Pontiac, Michigan
on December 13, 2007.

Pursuant to Supreme Court Administrative Order 2007-3, Electronic Document Filing Pilot Project, the above captioned case has been ordered into the Sixth Circuit Court's Mandatory Efiling Pilot Project. Subject to the provisions of Administrative Order 2007 - 3, found at [http://courts.michigan.gov/supremecourt/Resources/Administrative/2002-37\(2007-3\).pdf](http://courts.michigan.gov/supremecourt/Resources/Administrative/2002-37(2007-3).pdf), beginning on January 1, 2008 all filings must be made electronically through the Wiznet E-File & Serve efiling tool (E-File & Serve). Firms must register to use the system. Documents not submitted in compliance with this notice (including documents submitted in the traditional manner) will be rejected. **PLAINTIFF IS RESPONSIBLE FOR SERVING A COPY OF THIS NOTICE WITH THE SUMMONS AND COMPLAINT ON ALL OPPOSING PARTIES.** Note: In addition, Staff attorneys will require a hard copy of Motions for Summary Disposition and Briefs in Support.

Additionally, the judges will issue orders electronically. Parties who fail to register as a Service Contact will not receive a copy of any orders created by the Court and must obtain them from the County Clerk's office at a cost of \$1.00 per page or another party. Neither the Court nor the County Clerk will provide free copies of orders or other electronically filed documents to a party that fails to register with the E-file & Serve system.

Training on E-File & Serve is offered at the Oakland County Courthouse, as well as online. For times and dates of in-person training go to <http://www.oakgov.com/clerkrod/efiling/index.html>. To obtain on-line or teleconference training through Wiznet or to address other questions regarding E-File & Serve, please contact Wiznet at 800 297-5377 or support@wiznet.com.

Circuit Court Judges
Judge Michael Warren
Judge Wendy L. Potts
Judge Fred M. Mester
Judge Colleen A. O'Brien



JUDGE COLLEEN A. O'BRIEN
DENEWETH DUGA v. MIDWEST ENVIR

STATE OF MICHIGAN
RECEIVED FOR FILING
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DENEWETH, DUGAN & PARFITT, P.C.,
a Michigan Professional Corporation, 700 JUL -9 P 12: 48

Case No.: 08-

-CK

Plaintiff,

Hon.

vs.

OAKLAND COUNTY CLERK

BY:

MIDWEST ENVIRONMENTAL, INC., a Nebraska
corporation, JOHN J. LECHER-ZAPATA, individually,
MWE Services, Inc., a Nebraska corporation and
ZAPATA, INC., a Nebraska corporation,

Defendants.

Chris M. Parfitt (P23821)
Matthew C. Herstein (P68596)
Deneweth, Dugan & Parfitt, P.C.
Attorney for Plaintiff
1175 W. Long Lake Rd., Ste. 202
Troy, MI 48098
(248) 290-0400

THERE IS NO OTHER CIVIL ACTION
ARISING OUT OF THE SAME TRANSACTION
OR OCCURRENCE AS ALLEGED IN THIS
COMPLAINT PENDING IN THIS COURT NOR
HAS ANY SUCH ACTION BEEN PREVIOUSLY
FILED AND DISMISSED AFTER HAVING BEEN
ASSIGNED TO A JUDGE.

Chris M. Parfitt (P23821)

COMPLAINT

GENERAL ALLEGATIONS

Plaintiff, Deneweth, Dugan & Parfitt, P.C. ("DDP"), says:

1. That it is a professional corporation for profit with offices located in the City of Troy, County of Oakland, State of Michigan.

2. Defendant Midwest Environmental, Inc. ("Midwest") is a Nebraska corporation with a resident agent of John J. Lecher-Zapata and a registered business address of 1935 Yolanda Ave., Lincoln, NE, 68521.

3. Defendant Zapata, Inc. ("Zapata") is a Nebraska corporation with a resident agent of John J. Lecher-Zapata and a registered business address of 1935 Yolanda Ave., Lincoln, NE, 68521.

4. Defendant MWE Services, Inc. ("MWE") is a Nebraska corporation with a resident agent of John J. Lecher-Zapata and a registered business address of 1935 Yolanda Ave., Lincoln, NE, 68521.

5. Defendant John J. Lecher-Zapata ("Mr. Zapata") is an individual residing in the State of Nebraska.

6. The amount in controversy is greater than \$25,000, and this matter is otherwise within the jurisdiction of this Court.

COUNT I

BREACH OF CONTRACT

7. Plaintiff incorporates by reference all previous allegations of this Complaint as though fully set forth herein.

8. Prior to April 17, 2006, Mr. Zapata, the President of MWE, Midwest and Zapata, contacted DDP to request that DDP provide legal services on a legal matter on behalf of Midwest, Zapata, MWE and Mr. Zapata individually.

9. The parties orally agreed that DDP would be paid an hourly rate for the services it provided, plus expenses.

10. The agreed rate for DDP's services was \$250.00 per hour for senior attorneys, \$200.00 per hour for associate attorneys and \$125.00 per hour for Senior Legal Assistants.

11. DDP represented Midwest, MWE, Zapata, and Mr. Zapata with regard to a suit against them by the Trustees for the Michigan Laborers' Pension Fund, Trustees for the

Michigan Laborers' Health Care Fund, Trustees for the Michigan Laborers' Annuity Fund, Trustees for the Michigan Laborers' Training & Apprenticeship Fund, Trustees for the Michigan Laborers' & Employers' Cooperation Trust Fund, and Trustees for the Michigan Laborers' Vacation Fund, Michigan Laborers' Fringe Benefit Funds (collectively hereinafter referred to as the "Trustees"), which had been filed by the Trustees before the United States District Court in the Western District of Michigan, Docket No. 4:04 cv 0089 (the "Litigation").

12. DDP defended the interests of Midwest, MWE, Zapata, and Mr. Zapata, attending hearings, filing pleadings and other legal documents, attending trial, and ultimately assisting Midwest, MWE, Zapata, and Mr. Zapata in settling this matter after trial had begun and before trial had been completed.

13. Midwest, Zapata, MWE, and Mr. Zapata have failed and refused to pay DDP for its services.

14. There remains due and owing to DDP on the parties' contract an amount of \$26,393.00.

15. Although DDP has made repeated requests for payment, Midwest, MWE, Zapata, and Mr. Zapata have failed and refused to pay the same.

WHEREFORE, Plaintiff, Deneweth, Dugan & Parfitt, P.C., prays for judgment against Defendants, Midwest Environmental, Inc., MWE Services, Inc., Zapata, Inc., and John J. Lecher-Zapata, jointly and severally, in the principal amount of \$26,393.00, plus interest, costs, and attorney fees.

COUNT II

OPEN ACCOUNT

16. Plaintiff incorporates by reference all previous allegations of this Complaint as though fully set forth herein.

17. At the request of Mr. Zapata, DDP represented Midwest, MWE, Zapata, and Mr. Zapata in the Litigation and provided legal services on an open account on Midwest's, MWE's, Zapata's, and Mr. Zapata's promise to pay for them.

18. Plaintiff has submitted invoices and statements of Midwest's, MWE's, Zapata's, and Mr. Zapata's account to Defendants and same were received by Defendants without objection.

19. The balance owing to Plaintiff is \$26,393.00, over and above all legal counterclaims and setoffs, and an Affidavit of Open Account is attached hereto as **Exhibit A** and is incorporated herein.

20. Although DDP has made repeated demands upon Midwest, MWE, Zapata, and Mr. Zapata for payment, Midwest, MWE, Zapata, and Mr. Zapata have failed and refused to pay the balance due and owing.

WHEREFORE, Plaintiff, Deneweth, Dugan & Parfitt, P.C., prays for judgment against Defendants, Midwest Environmental, Inc., MWE Services, Inc., Zapata, Inc., and John J. Lecher-Zapata, jointly and severally, in the principal amount of \$26,393.00, plus interest, costs, and attorney fees.

COUNT III

UNJUST ENRICHMENT

21. Plaintiff incorporates by reference all previous allegations of this Complaint as though fully set forth herein.

22. DDP provided legal services to Midwest, MWE, Zapata, and Mr. Zapata.

23. Midwest, MWE, Zapata, and Mr. Zapata accepted and benefited from the legal services provided by DDP, but Midwest, MWE, Zapata, and Mr. Zapata have failed to pay DDP for those services.

24. DDP is still owed the principal amount of \$26,393.00 in connection with the services it provided to Midwest, MWE, Zapata, and Mr. Zapata.

25. Unless Midwest, MWE, Zapata, and Mr. Zapata are made to pay for the services provided by DDP, Midwest, MWE, Zapata, and Mr. Zapata will be unjustly enriched in the amount of \$26,393.00 to the detriment of DDP.

WHEREFORE, Plaintiff, Deneweth, Dugan & Parfitt, P.C., prays for judgment against Defendants, Midwest Environmental, Inc., MWE Services, Inc., Zapata, Inc., and John J. Lecher-Zapata, jointly and severally, in the principal amount of \$26,393.00, plus interest, costs, and attorney fees.

DENEWETH, DUGAN & PARFITT, P.C.

Dated: July 9, 2008

By: 

Chris M. Parfitt (P23821)
Matthew C. Herstein (P68596)
Attorney for Plaintiff
1175 W. Long Lake Rd., Ste. 202
Troy, MI 48098
(248) 290-0400

3015.3/061708 Complaint against Zapata

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DENEWETH, DUGAN & PARFITT, P.C.,
a Michigan Professional Corporation,

Plaintiff,

vs.

Case No.: 08-
Hon.

-CK

MIDWEST ENVIRONMENTAL, INC., a Nebraska
corporation, JOHN J. LECHER-ZAPATA, individually,
MWE Services, Inc., a Nebraska corporation and
ZAPATA, INC., a Nebraska corporation,

Defendants.

Chris M. Parfitt (P23821)
Matthew C. Herstein (P68596)
Deneweth, Dugan & Parfitt, P.C.
Attorney for Plaintiff
1175 W. Long Lake Rd., Ste. 202
Troy, MI 48098
(248) 290-0400

AFFIDAVIT OF OPEN ACCOUNT

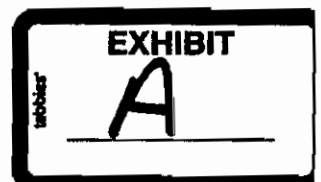
STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

Chris Parfitt, being duly sworn, deposes and says that:

1. He is a member of Deneweth, Dugan & Parfitt, P.C., is duly authorized so to do, and makes this Affidavit on behalf of Deneweth, Dugan & Parfitt, P.C., Plaintiff herein.


2. He has personal knowledge of the facts stated herein, except as to matters stated upon information and belief which he believes to be true, and if sworn as a witness, he would be competent to testify thereto.

3. The amount due the Plaintiff from the Defendants, as nearly as this deponent can estimate the same, over and above all legal counterclaims and set-offs, is Twenty Six Thousand Three Hundred Ninety Three Dollars and 00/100 (\$26,393.00), plus interest, and a copy of the account is annexed hereto.

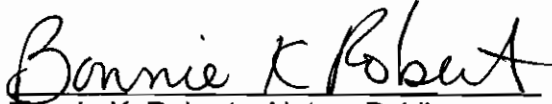


4. Said amount is just and is due on open account.

FURTHER DEPONENT SAIETH NOT.


Chris Parfitt

Subscribed and sworn to before me
this 9th day of July, 2008.



Bonnie K. Roberts, Notary Public
State of Michigan, County of Oakland
My Commission Expires: 12-30-10
Acting in the County of Oakland

2320.14/070808.Affidavit of Open Account